

Senate File 14 - Introduced

SENATE FILE 14

BY ANDERSON

A BILL FOR

1 An Act relating to abortion-inducing drug safety and providing
2 penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 146A.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Abortion*" means abortion as defined in section 146.1,
5 and includes a medical abortion.

6 2. "*Abortion-inducing drug*" means a medicine, drug, or any
7 other substance prescribed or dispensed with the intent of
8 terminating the clinically diagnosable pregnancy of a woman,
9 with knowledge that the drug will with reasonable likelihood
10 cause the termination of the pregnancy. "*Abortion-inducing*
11 *drug*" includes the off-label use of drugs known to have
12 abortion-inducing properties, which are prescribed specifically
13 with the intent of causing an abortion, but does not include
14 drugs that may be known to cause an abortion, but which are
15 prescribed for other medical indications.

16 3. "*Adverse event*" means adverse event as defined by the
17 United States food and drug administration for the voluntary
18 Medwatch reporting system form FDA 3500.

19 4. "*Department*" means the department of public health.

20 5. "*Drug label*" means the document published by the United
21 States food and drug administration which accompanies an
22 abortion-inducing drug and specifies the protocol tested and
23 authorized by the United States food and drug administration
24 and agreed upon by the drug company applying for authorization
25 of that drug.

26 6. "*Gestational age*" means the time that has elapsed since
27 the first day of the woman's last menstrual period.

28 7. "*Medical abortion*" means the use of an abortion-inducing
29 drug to induce an abortion.

30 8. "*Physician*" means any person licensed to practice
31 medicine and surgery or osteopathic medicine and surgery
32 pursuant to chapter 148.

33 9. "*Pregnant*" means the female reproductive condition of
34 having a developing human offspring in the woman's uterus from
35 conception until birth.

1 Sec. 2. NEW SECTION. 146A.2 Abortion-inducing drugs —
2 requirements.

3 1. An individual shall not knowingly give, sell,
4 dispense, administer, or otherwise provide or prescribe an
5 abortion-inducing drug to a pregnant woman for the purpose
6 of inducing an abortion in that pregnant woman, or for the
7 purpose of enabling another person to induce an abortion in
8 the pregnant woman, unless the individual who gives, sells,
9 dispenses, administers, or otherwise provides or prescribes
10 the abortion-inducing drug is a physician, and the provision
11 or prescription of the abortion-inducing drug satisfies the
12 protocol tested and authorized by the United States food and
13 drug administration and as specified in the drug label for the
14 abortion-inducing drug.

15 2. The physician giving, selling, dispensing,
16 administering, or otherwise providing or prescribing the
17 abortion-inducing drug shall first examine the pregnant woman
18 and document, in the woman's medical chart, the gestational age
19 and intrauterine location of the pregnancy prior to giving,
20 selling, dispensing, administering, or otherwise providing or
21 prescribing the abortion-inducing drug.

22 3. Each pregnant woman to whom a physician gives, sells,
23 dispenses, administers, or otherwise provides or prescribes any
24 abortion-inducing drug shall be provided with a copy of the
25 drug's label.

26 4. The physician giving, selling, dispensing,
27 administering, or otherwise providing or prescribing the
28 abortion-inducing drug shall have a signed contract with a
29 physician who agrees to handle complications and shall be
30 able to produce that signed contract upon request of the
31 pregnant woman or the department. The physician giving,
32 selling, dispensing, administering, or otherwise providing
33 or prescribing an abortion-inducing drug shall provide the
34 pregnant woman with the name and telephone number of the
35 physician who will be handling emergencies, and the hospital

1 at which any emergencies will be handled. The physician who
2 contracts to handle emergencies must have active admitting
3 privileges and gynecological and surgical privileges at the
4 hospital designated to handle any emergencies associated with
5 the use or ingestion of the abortion-inducing drug.

6 5. The physician giving, selling, dispensing,
7 administering, or otherwise providing or prescribing an
8 abortion-inducing drug, or an agent of the physician, shall
9 schedule a follow-up visit for the woman within fourteen days
10 after administration of the abortion-inducing drug to confirm
11 that the pregnancy is completely terminated and to assess the
12 degree of bleeding. The physician, or agent of the physician,
13 shall make all reasonable efforts to ensure that the woman
14 returns for the scheduled appointment. A brief description of
15 the efforts made to comply with this subsection, including the
16 date, time, and identification by name of the person making
17 such efforts, shall be included in the woman's medical record.

18 Sec. 3. NEW SECTION. 146A.3 Reporting — adverse event.

19 1. If a physician administers an abortion-inducing drug to
20 a pregnant woman for the purpose of inducing an abortion and if
21 the physician knows that the pregnant woman experiences, during
22 or after the administration of the drug, an adverse event, the
23 physician shall provide a written report of the adverse event
24 within three days of the event to the United States food and
25 drug administration under the Medwatch voluntary reporting
26 system using form FDA 3500, and to the department.

27 2. The department shall compile and retain all reports
28 received under this section. All reports received are public
29 records. However, the department shall not release to any
30 person the name or any other personal identifying information
31 regarding a person who was administered an abortion-inducing
32 drug for the purpose of inducing an abortion and who is the
33 subject of a report received under this section.

34 Sec. 4. NEW SECTION. 146A.4 Criminal penalties.

35 1. A person who intentionally, knowingly, or recklessly

1 violates any provision of this chapter is guilty of a class "D"
2 felony.

3 2. A criminal penalty shall not be assessed against a
4 pregnant woman upon whom a medical abortion is performed.

5 Sec. 5. NEW SECTION. 146A.5 Civil penalties.

6 1. In addition to any other remedies available under the
7 common or statutory law of the state, failure to comply with
8 the requirements of this chapter provides a basis for all of
9 the following:

10 a. A civil malpractice action for actual and punitive
11 damages.

12 b. A professional disciplinary action under chapter 148.

13 c. Recovery by the woman's survivors for the wrongful death
14 of a woman upon whom a medical abortion was performed.

15 2. Civil liability shall not be assessed against a pregnant
16 woman upon whom a medical abortion was performed.

17 3. When requested, the court shall allow a woman to proceed
18 in any action using solely her initials or a pseudonym and may
19 close any proceedings in the case and enter other protective
20 orders to preserve the privacy of the woman upon whom a medical
21 abortion was performed.

22 4. If judgment is rendered in favor of the plaintiff, the
23 court shall also render judgment for reasonable attorney fees
24 in favor of the plaintiff against the defendant.

25 Sec. 6. NEW SECTION. 146A.6 Construction.

26 1. This chapter shall not be construed as creating or
27 recognizing a right to abortion.

28 2. This chapter shall not be construed to legalize an
29 abortion that is not authorized by state or federal law.

30 Sec. 7. NEW SECTION. 146A.7 Right to intervene.

31 A member of the general assembly may intervene in any case in
32 which the constitutionality of this chapter is challenged as
33 a matter of right.

34 Sec. 8. NEW SECTION. 146A.8 Severability.

35 If any provision of this chapter or its application to any

1 person or circumstance is held invalid, the invalidity does
2 not affect other provisions or application of this chapter
3 which can be given effect without the invalid provision or
4 application, and to this end the provisions of this chapter are
5 severable.

6

EXPLANATION

7 This bill relates to the protocol relating to medical
8 abortions.

9 The bill provides that an individual shall not knowingly
10 give, sell, dispense, administer, or otherwise provide or
11 prescribe any abortion-inducing drug to a pregnant woman
12 for the purpose of inducing an abortion in that pregnant
13 woman, or enabling another person to induce an abortion in
14 a pregnant woman, unless the individual is a physician, and
15 the provision or prescription of the abortion-inducing drug
16 satisfies the protocol tested and authorized by the United
17 States food and drug administration (FDA) and as specified
18 in the drug label for the abortion-inducing drug. The bill
19 requires that the physician, prior to providing or prescribing
20 the abortion-inducing drug, first examine the pregnant woman,
21 and document in the woman's medical chart, the gestational age
22 and intrauterine location of the pregnancy prior to providing
23 or prescribing the abortion-inducing drug. The physician is
24 required to provide the pregnant woman with the drug's label;
25 to have a signed contract with a physician who agrees to handle
26 complications and to have this contract available upon request
27 by the pregnant woman or department of public health (DPH); and
28 to provide the pregnant woman with the name and the telephone
29 number of the physician who will be handling emergencies, and
30 the hospital at which any emergencies will be handled. The
31 physician who contracts to handle emergencies must have active
32 admitting privileges and gynecological and surgical privileges
33 at the hospital designated to handle any emergencies associated
34 with the use or ingestion of the abortion-inducing drug.

35 The bill requires the physician providing or prescribing

1 an abortion-inducing drug, or an agent of the physician, to
2 schedule a follow-up visit for the woman within 14 days after
3 administration of the abortion-inducing drug to confirm that
4 the pregnancy is completely terminated and to assess the degree
5 of bleeding, and to make all reasonable efforts to ensure that
6 the woman returns for the scheduled appointment. The physician
7 is directed to include a brief description of the follow-up
8 efforts made, including the date, time, and identification by
9 name of the person making such efforts, in the woman's medical
10 record.

11 The bill requires a physician to report adverse events
12 that the physician knows the woman experienced during or
13 after the use of the drug within three days of the event to
14 the FDA and to DPH. DPH is directed to compile and retain
15 all reports received. The reports are public records, but
16 DPH is not to release to any person the name or any other
17 personal identifying information regarding a person who used an
18 abortion-inducing drug for the purpose of inducing an abortion
19 and who is the subject of a report received.

20 A person who intentionally, knowingly, or recklessly
21 violates any provision of the bill is guilty of a class "D"
22 felony. A class "D" felony is punishable by confinement for no
23 more than five years and a fine of at least \$750 but not more
24 than \$7,500. However, a criminal penalty is not to be assessed
25 against the pregnant woman upon whom the drug-induced abortion
26 is performed. The bill also provides that in addition to any
27 other remedies available under the common or statutory law of
28 the state, failure to comply with the requirements of the bill
29 provides the basis for a civil malpractice action for actual
30 and punitive damages, a professional disciplinary action, or
31 recovery by the woman's survivors for the wrongful death of the
32 woman. However, civil liability is not to be assessed against
33 the pregnant woman upon whom the drug-induced abortion is
34 performed. The bill provides that in any action the court may
35 allow a woman to use solely her initials or a pseudonym and may

1 close any proceedings in the case and enter other protective
2 orders to preserve the privacy of the woman upon whom the
3 drug-induced abortion was performed. If judgment is rendered
4 in favor of the plaintiff, the bill provides for the awarding
5 of reasonable attorney fees.

6 The bill is not to be construed as creating or recognizing
7 a right to abortion or to legalize an abortion that is not
8 authorized under state or federal law.

9 The bill provides that a member of the general assembly
10 may intervene in any case in which the constitutionality of
11 the bill is challenged as a matter of right. The bill also
12 provides for severability of any provision of the bill or its
13 application if held invalid so that the invalidity does not
14 affect other provisions or application of the bill which can be
15 given effect without the invalid provision or application.